

FILED '09 JAN 20 14:55 USDC-ORE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

NANCY FIELDS,

Plaintiff,

Civil No. 08-6041-TC

v.

ORDER

TOMLIN NICKS WELLS & TOWNSEND
ADVERTISING, INC.,

Defendant.

COFFIN, Magistrate Judge:

This court has previously granted defendant's motion to compel discovery and ordered the corporate defendant to comply with plaintiff's discovery request. Defendant has failed to do so and plaintiff now brings a motion (#28) for sanctions.

As to the corporate defendant, plaintiff seeks an order striking defendant's answer and refusing to allow defendant to support its affirmative defenses or counterclaims and requiring defendant to pay all of plaintiff's expenses, including attorney fees, caused by defendant's failure to comply with this court's previous order. Such requests for sanctions are allowed and appropriate in accordance with Fed. R. Civ P. 37 (b)(2).

Plaintiff also seeks "an order treating defendant's officer and director, Charlie Nicks, in contempt

of court for failure to obey the Court order, and incarcerating the same until such time as the documents are produced...." P. 2 of Motion (#28). Plaintiff also seeks "an order causing a fine to be payable by director Charlie Nicks for each day that he fails to comply ... in an amount not less than \$500 per day. Id. at p. 3. Such requests for sanctions are denied. Nicks is not a party to this action. Nicks is only a former officer and director of defendant as he resigned such positions with the corporate defendant. Defendant is not represented by counsel and Nicks cannot represent defendant as an attorney. See C.E. Pope Equity Trust v. United States, 818 F.2d 696, 697 (9th Cir. 1987) . There is not an adequate basis for sanctions against Nicks in the circumstances of this case.

DATED this 20 day of January, 2009.



THOMAS M. COFFIN
United States Magistrate Judge